

U S WEST, Inc.
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Robert B. McKenna
Associate General Counsel

June 4, 1999

EX PARTE

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, DC 20554

RE: Petition of U S WEST Communications, Inc. for a Declaratory Ruling
Regarding the Provision of National Directory Assistance, CC Docket
No. 97-172

Dear Ms. Roman Salas:

U S WEST Communications, Inc. ("U S WEST") submits this response to the *ex parte* letter filed by INFONXX, Inc. ("INFONXX") in this proceeding on May 20, 1999. Contrary to INFONXX's suggestion on page 4 of its letter, U S WEST has committed to provide to other carriers, in accordance with Sections 251(b) and (c) of the Communications Act of 1934 ("Act"), precisely what INFONXX demands for itself: nondiscriminatory access to U S WEST's in-region directory listings. But INFONXX is not a carrier, and it therefore is not entitled to U S WEST's listings under either of those sections. The Federal Communications Commission ("Commission") should reject this attempt to circumvent the clear provisions of the Act.

U S WEST has already said it will provide other carriers with nondiscriminatory access to the in-region listings it uses to provide National Directory Assistance ("NDA"). Specifically, U S WEST stated in its Further Submission dated March 11, 1998 that, to the extent its in-region database contains listings from independent local exchange carriers ("LECs") and competitive LECs that U S WEST cannot legally provide to other carriers, U S WEST will not rely on those listings to provide its own NDA service. Currently, U S WEST is relying on those listings to provide its NDA service and is providing most of the independent LECs' listings to other carriers pursuant to Section 251. U S WEST is negotiating with the remaining LECs for authorization to do so, and if U S WEST does become authorized to provide these listings to other carriers,

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U S WEST will make them available pursuant to Section 251. If U S WEST does not receive authorization, it will remove these listings from its database. In either case, other carriers will be on a level playing field with U S WEST in their provision of directory assistance.

INFONXX, however, is not entitled to these listings under Section 251 because it does not provide telephone exchange service or telephone toll service and is not a telecommunications carrier. *See* 47 U.S.C. §§ 251(b)(3), (c)(3). Indeed, the Common Carrier Bureau last year squarely rejected a claim by INFONXX that it was entitled to access NYNEX's directory assistance database under Sections 251(b) and (c). *See INFONXX, Inc., Complainant, v. NYNEX, Defendant*, File No. E-97-16, Memorandum Opinion and Order, 13 FCC Rcd. 10288, 10293-95 ¶¶ 11-12 (1998) (“[W]e find no Section 251 obligation for NYNEX to provide INFONXX with nondiscriminatory access to its DA database . . .”). Of course, to the extent that INFONXX qualifies for access to directory listings under Section 222(e), U S WEST would fully comply with its obligations under that section. The Commission is currently in the midst of a rulemaking regarding Section 222(e), and it is not evident from the record in this proceeding that INFONXX would qualify for such access. *See Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, CC Docket No. 96-115, Notice of Proposed Rulemaking, 11 FCC Rcd. 12513, 12531-32 ¶¶ 43-46 (1996).

Thus, INFONXX's demand for access to U S WEST's in-region database has no statutory basis, and the Commission should grant U S WEST's petition subject only to the condition that U S WEST provide nondiscriminatory access to its in-region database pursuant to Sections 251(b) and (c). If I can be of further assistance in clarifying this matter, please do not hesitate to contact me.

Sincerely,

Robert B. McKenna
Robert B. McKenna

cc: Michelle Carey and recipients listed on attached service list

CERTIFICATE OF SERVICE

I, Ross Dino, do hereby certify that I have caused 1) the foregoing **EX PARTE** to be filed electronically with the FCC by using its Electronic Comment Filing System; 2) a courtesy copy of the **EX PARTE** to be served via hand delivery upon ITS and the FCC personnel listed on the attached service list; and 3) a copy of the **EX PARTE** to be served via first class United States mail, postage pre-paid, upon the persons listed on the attached service list.

Ross Dino
Ross Dino

June 4, 1999

*Courtesy copy served via hand delivery
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